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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------|------------------------|
| 10/629,018 | 07/29/2003 | Mohamed M. Morad | 2661.465US01 | 7636 |
| 23552 7590 07/09/2007 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903 | | | EXAMINER TRAN LIEN, THUY | |
| | | | ART UNIT 1761 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/629,018 | MORAD ET AL. | |
| | Examiner | Art Unit | |
| | Lien T. Tran | 1761 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 35-46, 48, 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Graaf et al.

Van Der Graaf et al disclose a composite dough product comprising a puff pastry dough sheet having attached thereon a sheet of another dough which acts as an anchoring layer. The anchoring dough can be pizza dough, bread dough, shortcrust and cake pastry. To is known to provide a bottom crust for a pizza which is a laminate of puff pastry as the lower layer and a normal pizza crust as the upper layer. After baking, the composite layer is provided with a moisture-barrier layer. The puff pastry is prepared as shown in example 1 and has a water content of 31.61%. Different fillings are applied to the composite dough layers. Filled product is frozen. (col. 1 lines 65-68 and col. 3)

Van Der Graaf et al do not disclose the moisture content of the second dough layer, the thickness of the dough layers, forming a pouch type product, the moisture and fat content of the second layer, the thickness ratio and a moisture barrier between the two dough layers.

Van Der Graaf et al disclose the second layer can be a pizza dough; thus, it would have been obvious to one skilled in the art to make a yeast leavened dough because pizza dough is commonly leavened by yeast. It would have been obvious to one skilled in the art to determine the appropriate moisture content depending on the texture wanted. Determination of the appropriate moisture content to obtain optimum texture and taste would have been within the routine experimentation for one skilled in the art. It would have been obvious to form the dough layers in any thickness and

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thickness ratio depending on the texture and taste wanted. Thinner crust provides a crunchier texture than a thicker crust. The degree of thickness would have been a matter of preference. It would have been obvious to form a pouch type product when desiring a closed configuration to prevent filling from dripping. Such configuration for filled food product is notoriously well known in the art. It would have been obvious to vary the amount of fat depending on the fat content wanted and the texture desired. Van Der Graaf et al teach putting a moisture barrier layer on top; however, it would also have been obvious to place a moisture barrier layer between the dough layers to further protect the lower layer from moisture migration of filling material through the first dough layer. This will further enhance the stability and shelf life of the product.

Claims 47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Graaf et al in view of Bauman et al.

Van Der Graaf et al do not disclose putting an adhesive layer between the two dough layers.

Bauman et al teach adding a binding agent such as water or starch glue between two dough layers to form a seal between the layers. (col. 4 lines 54-65)

It would have been obvious to add an adhesive layer as taught by Bauman et al between the dough layers of the Van Der Graaf et al product when desiring to seal the two layers to ensure that separation of the layers will not occur.

In the response filed 3/19/07, applicant argues the claimed food is different from the prior art in the anchoring layer, the puff pastry dough in the prior is different from the crispy unleavened dough and the dimensions and proportion of the different layers.

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This argument is not persuasive. The puff pastry layer in Van Der Graaf et al. corresponds to the claimed first unleavened outer dough layer and the anchoring layer corresponds to the claimed second yeast leavened inner dough layer. The puff pastry layer is not leavened. The claims do not recite anything about crispiness. Van Der Graaf et al. disclose the anchoring layer can be dough such as pizza, bread, etc.. Thus, it would have been obvious to one skilled in the art to make such layer to be a yeast leavened dough because pizza and bread dough are routinely leavened with yeast. As to the dimensions, dough layer can vary in thickness. For example, there are thin pizza crust, thick pizza crust, medium pizza crust and other variance in between. It would have been obvious to vary the thickness as a matter of preference depending on the crunchy texture wanted. Applicant does not present any evidence or argument of why this variation would not have been obvious to one skilled in the art. The same is true with the ratio of the different layer. If a thicker layer of a bread dough such as pizza dough is wanted, it would have been obvious to have more anchoring layer than the other layer. Applicant further argues the structure as shown in figure 2 of the patent would be unsuitable for the uses disclosed in the applications. This argument is not supported by factual evidence; furthermore, the uses are not claimed. Applicant comments that the puff pastry would show multiple layers, not just one as required. The layers in puff pastry are not actually layers as an actual layer of dough. The layers result from the puffing and lamination form during processing. The actual dough product still has an outer dough layer and an inner dough layer. This structure is also found in the claimed product because applicant discloses and recites the first dough

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layer can comprise a laminated layer having four or more laminations. Applicant also argues Van der Graaf et al teach away from the claimed invention by using a thin layer between the puff layer and the filling. It is not known what thin layer applicant is referring to. The puff layer is the outer layer and the anchoring layer is the inner layer; applicant's claims do not exclude the additional moisture barrier disclosed in Van Der Graaf et al. The anchoring layer includes a bread layer because it can be made of pastry dough such as bread and pizza and this anchoring layer contains the filling, not the puff layer. Applicant's claims do not recite the filling in the outer layer. As to applicant's argument about using the dough in the raw state, where topping are added to the uncooked dough, how the product is used does not determine its patentability. The Van der Graaf et al product is heated in a microwave oven after storage; thus, it is suitable for baking. The claims are not directed to raw, unbaked product; in fact, the end product claimed is a baked product as recited in claim 38.

Applicant does not make any argument against the Baumann et al reference with respect to the use of an adhesive between the dough layers.

Applicant's arguments filed 3/19/07 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hendricks Keith can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

July 3, 2007

Lien Tran
LIEN TRAN
PRIMARY EXAMINER
Group 1700